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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,525	09/26/2001	Alejandro Schwartzman	CISCP236/4198	3761

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EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/965,525	SCHWARTZMAN ET AL.	
	Examiner	Art Unit	
	Christopher M. Lambrecht	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim 1-4, 6, 9-12, 14, 17-21, 23, 26, 33-35, 37, 39, and 40 are rejected under 35

U.S.C. 102(e) as being anticipated by Brown et al., U.S. Patent Application Publication No.

2002/0141544.

Regarding claim 1, Brown discloses a method (fig.3) for an operating system (executed by controller 60, fig.1, [0021]) to operate a system component, the operating system configurable to drive a plurality of system components ([0015]), the method comprising: identifying a component (e.g., upstream transmitter formed of 35, 85, 87 of fig.1; [0017]); obtaining parameter information comprising power characteristics of the component from nonvolatile memory (fig.3, item 205, [0022]; nonvolatile memory, [0016]); and characterizing the component using the parameter information (fig.3, items 215, 216; [0023]), wherein the characterization allows the operating system

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to operate the component ([0027]) and report power characteristics to an upstream device (fig.3, item 225; [0022], [0019]).

As to claim 2, Brown discloses the method of claim 1, wherein the operating system is a cable modem operating system (e.g., [0014]).

As to claim 3, Brown discloses the method of claim 2, wherein that the component is a tuner (i.e., upstream transmitter formed of 35, 85, 87 of fig.1; [0015], [0017]).

As to claim 4, Brown discloses the method of claim 3, wherein operating the component comprises varying RF transmission power ([0017]).

As to claim 6, Brown discloses the method of claim 3, wherein parameter information comprises band crossover frequency information ([0016]).

As to claim 9, Brown discloses the method of claim 3, wherein parameter information comprises component address information (setting control registers of components, [0015], [0016]).

Regarding claims 10-12, 14, and 17, Brown discloses a system (fig.1) comprising means for performing the corresponding method steps discussed above with respect to claims 1-4, 6, and 9.

Regarding claims 18-21, 23, and 26, Brown further discloses computer code ([0021]) for performing the corresponding method steps discussed above with respect to claims 1-4, 6, and 9.

Regarding claim 33, Brown discloses a cable modem comprising a tuner and nonvolatile memory as discussed above with respect to the method steps of claims 1-3.

As to claim 34, Brown discloses the apparatus of claim 33, wherein the nonvolatile memory is flash memory ([0016]).

As to claim 35, Brown discloses the apparatus of claim 34, wherein the tuner is a cable modem RF tuner ([0016]).

As to claims 37, 39, and 40, see the rejections of claims 4, 6, and 9, above.

2. Claims 27-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Stetson et al., U.S. Patent No. 6,552,614.

Regarding claims 27 and 30, Stetson discloses a cable modem (fig.2, 100) (and corresponding method) comprising: a tuner (fig.2, items 112, 122, 114, 116); a non-volatile memory (fig.2, item 128) operable to provide power characteristics associated with the tuner to a cable modem operating system (col. 3, ll. 54-59, col. 1, ll. 31-35), wherein the cable modem operating system uses (accounts for) the power characteristics to drive the tuner to transmit at a desired power level (col. 6, ll. 7-26).

As to claims 28 and 31, Stetson discloses the cable modem and corresponding method of claims 27 and 30, wherein the nonvolatile memory is flash memory (col. 6, ll. 15-20).

As to claims 29 and 32, Stetson discloses the cable modem and corresponding method of claims 28 and 31, wherein the tuner is a cable modem RF tuner (col. 4, ll. 5-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5, 7, 8, 36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Lapid, U.S. Patent No. 6,687,489.

Regarding claims 5, 7, 8, 36, and 38, Brown discloses the methods and apparatus of claims 3, 11, 20, and 35, but fails to disclose parameter information comprising IF output information, IF

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AGC Gain Threshold information, or RF AGC Gain Threshold information. However, in an analogous art, Lapid discloses such parameters (e.g., IF/RF TOP and AGC response parameters) may be used for temperature compensation in a cable modem tuner (col. 4, ll. 1-51). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the parameter information of Brown to include the IF/RF TOP and AGC response parameters taught by Lapid, thereby enabling improved the cable modem tuner performance.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on Mon-Fri, 9:30 AM to 6:00 PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher M. Lambrecht
Examiner
Art Unit 2623

cml



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